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In re Application of :
Michael R. Conboy et al. : DECISION ON PETITION
Application No. 09/207,282 : TO WITHDRAW THE
Filed: December 8, 1998 : HOLDING OF ABANDONMENT
For: MANAGEMENT OF MULTIPLE TYPES
OF EMPTY CARRIERS IN AUTOMATED
MATERIAL HANDLING SYSTEMS


This is in reply to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181(a) filed in the United States Patent and Trademark Office (USPTO) on March 26, 2003.

The petition is **GRANTED**.

A review of the application file reveals that a Final Office action was mailed to applicants on February 28, 2001. A Notice of Appeal was received on July 3, 2001. An Appeal Brief was received on September 6, 2001. A Notice of Abandonment mailed February 24, 2003, specified that the application had become abandoned because of applicants' failure to timely pay the statutory appeal fee.

In the petition applicants argue that the statutory fee for filing the appeal brief was presented on page 10 of the appeal brief. A further review of the application file reveals that a request to charge petitioner's deposit account in the amount of \$310.00 was clearly authorized on this page. Thus, the application was prematurely held to be abandoned, since applicant clearly authorized the payment of the appeal brief.

Accordingly, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, charge the fee for the appeal brief to petitioner's deposit account, before sending the application to the Examiner of record for consideration of applicant's request for reconsideration of the examiner's holding that the Reply Brief was untimely, dated September 25, 2002.


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SNM/tpl: 6/19/03